UNITED NATIONS

CAAS

International Convention against
Apartheid in Sports

Distr.
LIMITED

CAAS/SP/1991/L.6
1 November 1991

ORIGINAL: ENGLISH

MEETING OF THE STATES PARTIES
Resumed seventh meeting

ARRANGEMENTS FOR THE 1991 SESSION OF THE COMMISSION AGAINST APARTHEID IN SPORTS

Note by the Secretariat

1. It may be recalled that the estimated expenses relating to the 1991 session of the Commission against Apartheid in Sports are in the amount of $45,000, and that the method of apportionment was approved at the meeting of the States parties held on 1 July 1991. The total of contributions received so far (including the balance from 1990) is $23,931.

2. The question concerning the session of the Commission was discussed at the meeting of the Working Group of the Special Committee against Apartheid held on 22 October 1991. The Working Group recommended to the Special Committee that it grant an amount up to $21,000 in order to enable the scheduled meeting of the Commission to take place. The Secretariat was requested to seek the view of the Office of Legal Affairs concerning this matter. There were also other legal questions raised concerning the International Convention against Apartheid in Sports and the Commission. These questions and the replies from the Office of Legal Affairs are set out in the annex to the present document.

Annex

Question: What is the consequence if a State party to the International Convention against Apartheid in Sports fails to pay its assessed contribution under the Convention? If the Commission meets and there are delinquent States parties are they obliged to pay later?

Answer: Article 11 (7) of the International Convention against Apartheid in Sports (General Assembly resolution 40/64 G, annex) provides as follows: "States Parties shall be responsible for the expenses of the Commission while they are in performance of Convention duties." This provision of the Convention creates a legal obligation for the Parties to the Convention. The obligation continues to be valid as long as the Convention is in force, including, particularly, when the States parties have not met their obligations under the Convention.

Article 10(4) of the Convention provides that "in cases of flagrant violations of the provisions of the present Convention, States Parties shall take appropriate action as they deem fit...".

Regardless of whether actions deemed fit are taken against a Member State pursuant to article 10(4) of the Convention or otherwise, the Member State's obligations to pay remains and will obviously not be discharged by that State's refusal to pay.

Question: Could the Commission against Apartheid in Sports (a treaty body) accept a grant from the Special Committee against Apartheid to be used to cover the cost of convening a session of the Commission?

Answer: Article 11 (7) of the Convention lays down the means by which the expenses of the Commission shall be met as follows:

> "States Parties shall be responsible for the expenses of the members of the Commission while they are in performance of Commission duties".

This is the only authorized way for financing the expenses of the Commission. Therefore, unless the States parties by a decision authorize another way for meeting those expenses it would not be proper to go beyond the Convention-sanctioned source for meeting the Commission's expenses.

A "grant" from the Special Committee against Apartheid raises no evident political difficulty of acceptance by the Commission, but the same would perhaps not be true if the "grant" were offered by other sources, for example, by the Government of South Africa.

For the above reasons it is our opinion that only the source for meeting the expenses for the Commission as laid down in the Convention can be used for that purpose.